

Approved 1/13/09

**TOWN OF CUSHING
PLANNING BOARD
Minutes of Meeting
December 3, 2008**

Board Present: David Cobey, Bob Ellis, Frank Muddle, CEO Scott Bickford and Recording Secretary Crystal Robinson

Absent: Chairman Dan Remian and Evelyn Kalloch

1. Call to Order: Vice-Chairman Muddle called the meeting to order at 6:30 P.M. and declared a quorum.

2. Approve the Minutes of 11/5/08:

ACTION: Mr. Ellis made a motion, seconded by Mr. Cobey, to table approval of the minutes until the next meeting.
Carried 3-0-0

3. New Business: Kenneth Sawyer, 3 Henderson Lane, Map 6, Lot 76A, Application for Construction of Porch in Shoreland Zone[SZ]: The application was represented by Eric Beckstrom of Beckstrom Architects. Mr. Beckstrom said there was an existing front porch to which the owner wanted to add a wooden half-circle deck and arch, making the total 48 Sq. Ft. He presented an updated (more detailed) plan.

Mr. Cobey inquired about the flood elevation and Mr. Ellis said the porch was nowhere near it. CEO Bickford said he had been to the site and he thought it was OK. Mr. Ellis asked if the 20% expansion standards applied to only the portion of the house in the SZ or to the entire house. The CEO said he could not answer the question. Mr. Ellis interpreted the ordinance to say it was only the portion within the SZ that mattered and Mr. Muddle concurred. Mr. Bickford said the tax card and appraisal did not clearly show what was within the SZ. Mr. Cobey said that question must be answered before the PB could act on the application. He drew Mr. Beckstrom's attention to the delineation of Henderson's Lane and Stones Point Road, asking if the lines represented ROWs, which would effect the determination of the lot area within the SZ.

The CEO said this project had gone through the PB before and this point may have been missed. Mr. Ellis asked which ordinance had been used when the addition was approved and Mr. Cobey said the language regarding expansion was unchanged in the new ordinance. There was further discussion of the definition of the area considered for the 20% calculation. The CEO explained that the ordinance language meant that if all of the lot was within the SZ then all of the lot was used in the calculation. In response to questions about grand-fathering, he added that only the structures that were in place at the time the SZ was adopted, which the original house was, would be covered by that. Mr. Bickford asked if the appeals process would allow for a variance if the allowable lot coverage had been exceeded in the earlier approval. In that case, Mr. Cobey said, Mr. Sawyer could appeal on the basis of incompetent decision. Mr. Muddle added that meeting the four requirements for a variance was not likely. The Board agreed that determining what part of the property was used for the 20% determination depended on the interpretation of the word "or" in the SZ ordinance Section 15(B)(4). Mr. Cobey and Mr. Ellis said they would like to hear how DEP's Rich Baker interpreted the ordinance.

ACTION: Mr. Cobey made a motion, seconded by Mr. Ellis, to get an interpretation from both MMA and DEP of the intent of Section 15(B)(4).
Carried 3-0-0

The Board asked Mr. Beckstrom to determine lot coverage for the entire lot and also for only the part in SZ.

4. Discussion of Non-Conformance in Section 12 of Shoreland Zone Guidelines: Mr. Cobey said the Ordinance Committee [OC] had received a letter from Bonnie Miller regarding the SZO, which he would pass on to Mr. Remian. He said he also had some questions raised by the OC. Mr. Muddle said these could be discussed but he had attended the recent OC meeting and was concerned by the whole process and would

like to have the entire Board involved in the discussion.

Mr. Cobey said the OC had found errors in the table of SZ district area requirements for CFMA, since there were none for CFMA. Additionally, a memo regarding fishing home businesses did not address aquaculture. Mr. Cobey said Eric had been upset about the process by which people changed their district. He felt every one in town who owned waterfront property should have the same right to change their district if they met the requirements. Eric had felt it preferential to only get in touch with those who had dual use lots. Mr. Ellis said he had wanted to contact all waterfront property owners but the Board had not agreed. Mr. Cobey said a date should be set by which time lot owners must declare what they wanted to do. The PB must then review the applications to be sure they satisfied the requirements of the district. There was discussion of the process for determining district changes and the ordinance wording concerning this. Mr. Cobey suggested the PB should develop an application for people who wanted to change their lot designation on the official SZ map. Mr. Ellis said the Board should suggest the procedure to change the district. It would then be the Selectmen's responsibility to put the petition before the voters. He felt it was appropriate for either a landowner or the PB to bring a petition to the Selectmen.

Mr. Cobey went on to note many of the questions, changes and additions the OC had discussed. The Board discussed each of these briefly. Mr. Ellis said all of these items could be taken up in more detail at a workshop. Mr. Muddle agreed to speak to Chairman Remian about setting up a workshop the next week.

5. Adjournment:

ACTION: Mr. Muddle made a motion, seconded by Mr. Cobey, to adjourn at 8:20 P.M.
Carried 3-0-0

Respectfully submitted,

Deborah E. Sealey
Recording Secretary